

**Letter of Findings Number: 10-0326P
Corporate Income Tax-Penalty
For the Year 2008**

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ISSUE

I. Tax Administration—Estimated Tax Penalty.

Authority: IC § 6-3-4-4.1.

Taxpayer protests the imposition of the ten percent penalty for failure to make sufficient estimated tax payments during the tax year.

STATEMENT OF FACTS

Taxpayer is a C corporation operating in Indiana. For tax year 2007, Taxpayer reported an Indiana corporate income tax liability. During 2008, Taxpayer made estimated tax payments during the course of the year. However, the Indiana Department of Revenue ("Department") determined that the estimated payments did not meet the minimum amount required for each quarter and assessed a ten percent penalty based on the underreported quarterly payments. Taxpayer protested the penalty.

I. Tax Administration—Estimated Tax Penalty.

DISCUSSION

Taxpayer protests the imposition of the ten percent penalty imposed because of Taxpayer's failure to make sufficient estimated tax payments.

IC § 6-3-4-4.1 provides in relevant part:

(c) Every corporation subject to the adjusted gross income tax liability imposed by this article shall be required to report and pay an estimated tax equal to the lesser of:

(1) twenty-five percent (25[percent]) of such corporation's estimated adjusted gross income tax liability for the taxable year; or

(2) the annualized income installment calculated in the manner provided by Section 6655(e) of the Internal Revenue Code as applied to the corporation's liability for adjusted gross income tax.

A taxpayer who uses a taxable year that ends on December 31 shall file the taxpayer's estimated adjusted gross income tax returns and pay the tax to the department on or before April 20, June 20, September 20, and December 20 of the taxable year. If a taxpayer uses a taxable year that does not end on December 31, the due dates for filing estimated adjusted gross income tax returns and paying the tax are on or before the twentieth day of the fourth, sixth, ninth, and twelfth months of the taxpayer's taxable year. The department shall prescribe the manner and forms for such reporting and payment.

(d) The penalty prescribed by [IC 6-8.1-10-2.1](#)(b) shall be assessed by the department on corporations failing to make payments as required in subsection (c) or (f). However, no penalty shall be assessed as to any estimated payments of adjusted gross income tax which equal or exceed:

(1) the annualized income installment calculated under subsection (c); or

(2) twenty-five percent (25[percent]) of the final tax liability for the taxpayer's previous taxable year.

In addition, the penalty as to any underpayment of tax on an estimated return shall only be assessed on the difference between the actual amount paid by the corporation on such estimated return and twenty-five percent (25[percent]) of the corporation's final adjusted gross income tax liability for such taxable year.

Based on Taxpayer's 2007 reported tax liability, Taxpayer was required to make quarterly payments in excess of \$118,000. However, Taxpayer determined that the 2008 tax year would not be as profitable as 2007 and thus made substantially reduced estimated payments for the last three quarters of 2008. As it turned out, 2008 was even more profitable than 2007 and thus Taxpayer's Indiana corporate income tax liability for 2008 was greater than its 2007 liability.

IC § 6-3-4-4.1 provides a floor for estimated corporate income tax payments for a taxable year. Even though Taxpayer believed that its Indiana tax liability would be lower in 2008 than 2007, Taxpayer assumed the risk of error—in this case, statutory penalties—when it decided to remit reduced payments during 2008. Even if Taxpayer's assumption of lower tax liabilities was reasonable, the provisions of IC § 6-3-4-4.1 provide for strict liability—if a corporation fails to meet the minimum estimated payment requirements, it is subject to penalty, especially when the tax liability of the previous year is already known. Taxpayer has not otherwise provided legal or factual grounds sufficient to justify penalty waiver.

FINDING

Taxpayer's protest is denied.

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